

Planning Board Meeting
7:00 p.m. Town Hall
Wednesday, November 28, 2018

Members Present: Kate Murray, Rich Landry, Lorne Jones, Bill Stewart, Margaret Sofio

Others Present: Tim Phoenix, Peter Hunt, John Chagnon, Thomas Shippee, John Myles, Tom Chamberlin

Members Absent: Darcy Horgan, Tom Hammer

Acting Chair Bill Stewart opened the meeting at 7:04 p.m. and indicated that all present members will vote: himself, Ms. Kate Murray, Ms. Margaret Sofio, Mr. Lorne Jones and Mr. Rich Landry.

1. Review of Minutes

Members reviewed the minutes of the October 24, 2018 meeting of the Planning Board. Ms. Murray moved to accept the minutes of the October 24, 2018 meeting as amended. Mr. Landry seconded the motion. Motion carried, unanimously.

Members reviewed the minutes of the August 22, 2018 meeting of the Planning Board. Ms. Murray moved to accept the minutes of the August 22, 2018 meeting as amended. Mr. Landry seconded the motion. Motion carried, unanimously.

Members reviewed the minutes of the June 27, 2018 meeting of the Planning Board. Ms. Murray moved to accept the minutes of the June 27, 2018 meeting as amended. Mr. Landry seconded the motion. Motion carried, unanimously.

2. Public Hearing for a Conditional Use Permit for applicants Peter Hunt and Elizabeth Barnhorst, 14 Pit Lane, Map 13, Lot 1, for construction of house and porch additions to their existing two-story residence within the 100-foot setback to a Class A Wetland.

Mr. Tim Phoenix, an attorney with Hoefle, Phoenix, Gormley & Roberts, Portsmouth, representing applicants Peter Hunt and Elizabeth Barnhorst, described the proposed construction to extend the living and dining area by 8 feet to expand the home's small interior by 8' X 26' to accommodate a growing family. An 8.5' X 7' extension to the porch — which shares and spans the wall that will be extended — is also proposed for continuity and aesthetic reasons.

With a map to delineate wetlands, the 50-foot setback, and the 100-foot setback, Mr. Phoenix showed that there is no other way to expand that portion of the home to better minimize buffer zone impact. There are only two small areas where the planned distance between the addition and the wetlands, 95.3' at the corner and 98.6' near the midpoint of the addition, is less than

100'. The applicants would need less than 5 feet of relief. Further, the public road, Pit Lane is located between the wetland and the subject property. Mr. Phoenix suggested that road travel has a greater impact on the wetland than any temporary disturbance that will be caused by the construction. The applicants plan additional vegetation planting in the buffer area. The project has been reviewed by the Building Inspector, a variance was secured from the Zoning Board of Adjustment (ZBA), and recommendation for approval has been granted by the New Castle Conservation Commission (NCCC) with the condition to install a silt fence. Acting Chair Stewart noted that he is in possession of both board decisions.

Mr. Phoenix described how the project meets each of the conditions (p.54 of the New Castle Zoning Ordinance, May 2018) necessary for the granting of a Conditional Use Permit.

- a. Adding space to the existing living and dining room can only be accomplished in the area adjacent to the existing rooms.
- b. The addition is minimal and is mediated by the location of Pit Lane, existing plantings, and the applicant's willingness to add plantings and a construction-phase silt fence.
- c. Because locating the addition is determined by the existing home, there is no reasonable alternative.
- d. The applicant agrees to return the site (other than the new foundation) to its pre-construction condition.
- e. There will be de minimis effect on the wetland and no hazard will be created.
- f. No further permitting is required.
- g. Impervious surface will be added due to the roofed addition. Ground and soil disturbance will be the minimum necessary to create the addition. The only vegetation to be removed will be that where the addition is sited. New plantings will be added between the addition and the wetland. The buffer zone is only reduced to a minimum of 95 feet. Because 100 feet is somewhat arbitrary, the NCCC agreed with the applicant that no harm will come to the wetland given the features and the existence of Pit Lane.
- h. Although the applicant would acquiesce to the condition of an environmental assessment, it is proposed that the small scale of the project, at a distance from the wetland, would make the condition unnecessary.
- i. The applicant doesn't believe a performance security bond to be necessary but would accept the condition if imposed.
- j. The fees have been paid.

Mr. Phoenix described the current roof run-off management as a gutter with two rain gardens. The gutter system will be extended to the addition and a new rain garden added.

Acting Chair Stewart opened the Public Hearing at 7:19 p.m. and, hearing no comments, closed it at 7:20 p.m.

Responding to Ms. Murray, the applicant, Mr. Hunt, described that the existing native plantings would be moved to accommodate the addition. The existing boxwoods along Pit Lane will be

undisturbed. The Board dismissed the need for a security bond based on the applicant's reputation for maintaining the property.

Ms. Sofio moved to approve a Conditional Use Permit for applicants Peter Hunt and Elizabeth Barnhorst, 14 Pit Lane, Map 13, Lot 1, for construction of house and porch additions to their existing two-story residence within the 100 foot setback to a Class A wetland per plans dated August 27, 2018 conditioned on using silt fences between the construction area and wetland during the construction process.

Mr. Landry seconded the motion. Motion carried unanimously.

3. Work session for a proposed Subdivision of land for applicant Thomas Shippee, 171 Pickpocket Road, Brentwood, NH for the property owned by Edmund C. Tarbell at 148-152 Portsmouth Ave, Map 16, Lot Number 8 & 9.

Acting Chair Stewart noted that the two subject lots have more recently been merged into one lot and expects that the new tax map will reflect it as such.

Mr. John Chagnon of Ambit Engineering, representing the applicant, Thomas Shippee, noted the presence of the proposed buyers and sellers, and their representatives. Referencing the plans, Mr. Chagnon described the former location of a three-unit structure on the property. Since a fire destroyed that structure, the owners have been exploring options for the property. A previous proposal didn't move forward. This is a new proposal to subdivide the single lot into two lots —front (Lot 1) and back (Lot 2)— both of which would be single-family, residential lots. There is a current deeded right-of-way (ROW) on the east side of the lot that services the subject property and the neighboring property to the east, which would continue to serve the new front lot. Plans propose the creation of a new private ROW on the west side to create frontage (70 feet long, 30 feet wide) and access for the back, river-side lot.

The lot meets the dimensional requirements and is served by town water and the force main —although the rear lot may elect septic instead. Lot 2 development would be subject to regulations related to its location adjacent to the Piscataqua River with portions within the 100-foot tidal buffer zone, and the 250-foot shoreland zone. Mr. Chagnon anticipates that there would not be any need to build within the 100-foot setback given the robust building area, however, a Shoreland Permit would need to be filed.

Responding to the Board's concern about a second ROW, Mr. Chagnon explained that this was due to the desire for unshared access to the back lot. Mr. Chagnon, acknowledging the requirement for 20-foot paved width (within the 30-foot ROW), proposed that the Board may loosen the width requirement to reflect its use as a driveway. The present deeded ROW is 15 feet.

Responding to concerns about potential drainage to the west of the subject property, Mr. Chagnon explained that the property slopes down from Portsmouth Avenue toward the river so care will need to be taken not to increase the flow of drainage. Mr. Landry suggested that would likely be a condition of approval.

Mr. Chagnon believes that the generous lot sizes won't present a problem with the impervious area threshold.

The public sewer is a force main where sewerage is pumped from New Castle to Portsmouth. The previous structure on the property pumped sewerage uphill into the pipe. Acting Chair Stewart asked whether the NH Department of Environment of Environmental Services (NHDES) would allow septic on the back lot. Mr. Chagnon was not aware of the town or NHDES requirement for sewer tie-in. Board members expressed the preference for sewer tie-in over septic.

Acting Chair Stewart asked for public comment. John Myles, 36 Tarbell Lane, who shares the ROW on the east side of the property, spoke in favor of the plan as proposed to add a new ROW to the west side of the property to lessen the amount of traffic on the existing ROW and because, if widened (per subdivision regs), it would exacerbate the existing drainage problem in which the runoff flows to the river. Mr. Chagnon reiterated that the new ROW would need to be designed to mitigate runoff and asked for Board feedback about the possibility of a narrowing the width requirement.

Mr. Landry explained that the Board is unenthusiastic about subdivisions that essentially utilize a driveway as a private road in order to achieve the frontage requirement. Accordingly, the Board may not be willing to waive the 20-foot width requirement. Additionally, it is expected that the fire department's preference is for 20 feet in order to access the property. It will likely come down to weighing precedent with the benefit of minimizing runoff.

Ms. Sofio recalled her meeting with the town Fire Chief about a similar proposal to narrow a proposed ROW on Wild Rose Lane to protect the wetland; he expressed a preference for a wider paved ROW.

Tom Chamberlin, 49 Riverview Road, whose property is adjacent to Mr. Myles, one lot east of the subject property, suggested the use of pervious pavement. The Board acknowledged that possibility but Mr. Landry indicated that the material was difficult for residential maintenance.

Acting Chair Stewart believed that the proposed subdivision meets the town's guidelines and, as such, would likely be approved. However, reducing the width requirement for the new ROW is less likely. Mr. Chagnon determined to plan for the full required width with the hope of revisiting the question during the application process.

Ms. Murray, while indicating that she is generally opposed to this model of subdivision, acknowledged that it could be worse. Her priority is to ensure that it is as environmentally sensitive as possible.

Mr. Landry believes it to be an approvable plan because it meets the town regulations. The outstanding issue will be the ROW width and runoff.

The Board will consult with public safety officials ahead of the hearing next month.

Acting Chair Stewart is also concerned about the sewerage plan; it is typically the town's preference to tie into the sewer system rather than build septic. Mr. Myles described that his riverfront property is tied to the town sewer and that his pump up station has worked well. He further noted that soil along the river has already washed out once and that a septic might be jeopardized by a similar event in the future.

Noting that the ROW is within the building setback, Mr. Landry would like to see a footprint plan for the proposed house to see that it is not up against the existing ROW. Mr. Chagnon suggested including a voluntary additional setback.

Acting Chair Stewart summarized that while general approval of the plan is expected, the key issues will be runoff, size of ROW, sewer hook up, and setback from the ROW.

Mr. Chagnon will connect with Pam Cullen to clarify confusion over the application fee.

4. Next meeting

The Board agreed to keep the December meeting on December 26, 2018. Ms. Murray will be Acting Chair. Acting Chair Stewart will solidify the next meeting date. Any changes will be communicated to Mr. Chagnon.

5. New Business- Ordinance changes

Acting Chair Stewart noted that there are no plans for ordinance changes this year after the significant changes last year. If the Board wants to look into ordinance changes that address subdivision plans to eliminate "pork chop lots," a member can start to research the issue.

The NCCC has decided to pursue other protections for Lavenger's Creek rather than revisiting the case for Prime Wetland due to concerns about how to refute misinformation. The assessor suggested that there would be no negative impact on property values.

Mr. Landry wondered whether would it make sense to look at adding a requirement for an Alteration of Terrain Permit (ATP) to ensure that post construction drainage is the same as it was pre-construction. Ms. Sofio wondered whether it could be required on a case by case basis. Acting Chair Stewart asked, and Mr. Landry affirmed that based on the current ordinance the Board could not mandate stipulations when a plan meets all the zoning ordinances, but it could

request them. When a project's environmental issues are beyond the expertise of the Board, the Board could require an environmental assessment and engineer-approved mitigation plan, or pay for a third party review.

Members discussed whether they had the time or appetite to change the ordinance to give the Board more discretion over these issues: possibly establish another class of subdivision (or disallow frontage on a ROW, or require a private road to serve three or more lots), and/or possibly establish a baseline for runoff.

Ms. Sofio proposed the encouragement of solar panels, similar to what's being done in Portsmouth.

Board members agreed to put off any ordinance changes until the following fiscal year.

6. Adjourn

Ms. Murray moved to adjourn the meeting. Mr. Landry seconded and the motion carried unanimously.

The meeting adjourned at 8:32 p.m. Ms. Sofia moved to adjourn and Mr. Landry seconded.

Respectfully Submitted,

Anne Miller, Secretary